

Military Equipment

609.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

609.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Bureau.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
 - Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.

Military Equipment

- Any other equipment as determined by a governing body or a state agency to require additional oversight.

609.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office, Bureau of Investigation that members of this bureau comply with the provisions of Government Code § 7071 with respect to military equipment.

609.3 MILITARY EQUIPMENT COORDINATOR

The Chief Investigator shall designate a member of this bureau to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying bureau equipment that qualifies as military equipment in the current possession of the Bureau, or the equipment the Bureau intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Santa Clara County District Attorney's Office, Bureau of Investigation (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the bureau's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief Investigator and ensuring that the report is made available on the bureau website (Government Code § 7072).

609.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Bureau:

- (a) Ten (10) model AR-15 Series caliber .223 rifles.
 1. The AR-15's were purchased in 2015 for \$1198.43 per rifle.
 2. The annual cost to maintain the AR-15's is less than \$1000. The average AR-15 can shoot approximately twenty thousand (20,000) rounds prior to needing a replacement barrel. Based on investigator training and usage, it is estimated the life expectancy of each rifle is approximately forty (40) years.

Military Equipment

3. As of September 2023, the Bureau will propose to augment its model AR-15 Series rifle inventory and its inventory of associated ammunition for the model AR-15 Series rifles. The ammunition is model.223 62 grain from manufacturer Speer Gold Dot.
 - (a) The DAO will seek approval from the Board of Supervisors in September 2023 to replace worn equipment and standardize the inventory by exchanging the current inventory of 10 rifles for new models. The cost of the 10 rifles is \$18,910.39. However, by trading-in the current inventory and allowing for the credit, the net cost will be \$7,140.63.
 - (b) The DAO will also seek approval from the Board of Supervisors in September 2023 to purchase ten (10) additional Colt 6920 AR-15 Series Rifles to support the important task forces that the DAO operates.

Five (5) of the rifles will be assigned to the Santa Clara County Gun Violence Taskforce (SCCGVTF), two will be assigned to Santa Clara County Specialized Enforcement Team (SCCSET) and three will be assigned to the Law Enforcement Investigating Human Trafficking Taskforce (LEIHT). The cost of these rifles will be \$18,910.39.
 - (c) Therefore, the total cost to upgrade the existing inventory and supply the task forces will be \$26,051.02.
 - (d) The approximate cost for the .223 62 grain ammunition, manufactured by Speer, will be a minimum of \$54,650.00. This estimated cost was generated by previous purchases for the ten existing rifles.
- (b) The Colt AR-15 is described as a lightweight, magazine-fed, gas-operated semiautomatic rifle.
- (c) Use of the Colt AR-15 is authorized for defensive operations only, such as active killing events (AKE) or other high-risk operations where handguns are determined to be insufficient for defensive and officer safety purposes.
- (d) Use of the Colt AR-15 is governed by the BOI Policy Manual, including PPM 401 (Use of Force) and PPM 405 (Firearms).
- (e) All investigators certified to carry these weapons must complete the Bureau's P.O.S.T. certified rifle course (16 hrs) and safely pass the BOI approved rifle qualification.

609.5 APPROVAL

The Chief Investigator or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief Investigator or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the bureau website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a.

Military Equipment

- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this bureau.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

609.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any Bureau employee shall be approved for use and in accordance with this policy. Military equipment used by another jurisdiction's/agency's employees that are providing mutual aid to the Bureau, or otherwise engaged in a joint operation with Bureau employees, shall comply with the respective jurisdiction's/agency's military equipment use policies.

609.7 MILITARY EQUIPMENT USE CONSIDERATIONS

The military equipment acquired and authorized by the Bureau is:

- (a) Necessary because there is no reasonable alternative that can achieve the objective of officer and civilian safety.
- (b) Reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

Investigators authorized to utilize a Bureau-issued carbine rifle while on-duty must satisfactorily complete the requisite training requirements as mandated by P.O.S.T. and maintain on-going qualifications with the weapon as required by the Bureau Rangemaster and this policy. Bureauissued carbine rifles may only be utilized during specialized on-duty circumstances defined by the Chief Investigator or authorized designee.

The legal and procedural rules that govern each authorized use are delineated in BOI PPM 401.4.

609.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief Investigator or the authorized designee shall submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

Military Equipment

The Chief Investigator or the authorized designee shall also make each annual military equipment report publicly available on the bureau website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in bureau inventory.

609.9 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Bureau shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Bureau should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

609.10 COMPLAINTS AND INQUIRIES

All complaints and/or inquiries related to the use, deployment, or documentation of military equipment will be investigated pursuant to BOI Policy Manual 304 (Personnel Complaints).

The mechanisms to ensure compliance with the military equipment use policy, including which independent person or entities have oversight authority, and if applicable, what legally enforceable sanctions are put in place for violations of the policy, can be found within PPM 304 (Personnel Complaints).